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Shingo Yamaguchi

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1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

TRUVAN, LEYNNA THANH

ART UNIT

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1 RECORD OF ORAL HEARING
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3 UNITED STATES PATENT AND TRADEMARK OFFICE
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6 BEFORE THE BOARD OF PATENT APPEALS
7 AND INTERFERENCES
8

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10 Ex parte SHINGO YAMAGUCHI
11

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13 Appeal 2008-2145
14 Application 09/863,384
15 Technology Center 2100
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18 Oral Hearing Held: July 9, 2008
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22 Before JAMES D. THOMAS, ST. JOHN COURTENAY III, and THU
23 ANN DANG, Administrative Patent Judges.
24

25 ON BEHALF OF THE APPELLANT:
26

27 SURINDER SACHAR, ESQUIRE
28 OBLON, SPIVAK, MCCLELLAND
29 MAIER & NEUSTADT, P.C.
30 1940 DUKE STREET
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32
33

34 The above-entitled matter came on for hearing on Wednesday, July 9,
35 2008, commencing at 9:00 a.m., at The U.S. Patent and Trademark Office,
36 600 Dulany Street, Alexandria, Virginia before Dominico Quattrociocchi,
37 Notary Public.
38

1 MS. HALL: -- 5, and the attorney is Mr. Surinder Sachar.

2 MR. SACHAR: Good morning, Your Honors.

3 JUDGE THOMAS: Good morning. I think you know the process, so
4 you can proceed at any time.

5 MR. SACHAR: Thank you very much. Yes. My name is Surinder
6 Sachar for appeal no. 2008-2145. This device, as claimed, is directed to a
7 system or method in which different devices can connect to a network, either
8 with a non-encrypted or encrypted connection. In this claimed device, we --
9 the device operates so that a network level access security level is set based
10 on whether the connection to the network from the external device is
11 encrypted or non-encrypted. If the device connects with a encrypted
12 connection, it will have a higher level of access and, as set forth in the
13 claims, it will be able to access a network server. If the device connects to
14 the network through a non-encrypted connection, it will have, basically, a
15 lower level of access and it will have access to some devices on the network,
16 as were said in the claims, the Internet or an e-mail server, but it won't have
17 access to the other devices.

18 JUDGE COURTENAY: Okay, to be clear, we first have a detection
19 or a determination step that determines whether you have an encrypted
20 connection or an unencrypted connection?

21 MR. SACHAR: Yes.

22 JUDGE COURTENAY: And from that information set, you
23 determine a first and second level of security?

24 MR. SACHAR: That's correct.

25 JUDGE COURTENAY: Okay.

1 MR. SACHAR: The primary reference is Stewart, and Stewart
2 discloses having a connection to the network with different access levels, but
3 does not disclose any encrypted or non-encrypted connection, and
4 particularly does not disclose making a determination of the access level
5 based on whether the connection is encrypted or non-encrypted.

6 And that's where the secondary reference comes in, to Lewis, as the
7 Examiner cites. Lewis discloses that devices can connect to a network either
8 with an encrypted or a non-encrypted connection. The difference between
9 what Lewis discloses and what our claims set forth is that in Lewis, the
10 network level access is not based on whether the connection is encrypted or
11 non-encrypted. Instead, in Lewis, a network administrator can set up
12 different levels of access. So in Lewis, even a device that connects in a non-
13 encrypted manner could have a very high level of access depending on how
14 the network administrator has set up access for that particular device.

15 The main point in our device is that the level of access is based on
16 whether the connection is encrypted or non-encrypted. Lewis, which
17 seemed to be cited for that proposition, doesn't make that determination.
18 Lewis does make a determination as to whether the connection is encrypted
19 or non-encrypted, but it's so it can make a second determination as to what
20 level of network access has been set by an administrator if the connection is
21 non-encrypted. And that's how we think our device is different from both
22 Stewart and Lewis.

23 JUDGE DANG: Are you saying individually they're different?

24 MR. SACHAR: Collectively. Neither of the devices addresses sort of
25 the main point of using the determination of encrypted or non-encrypted

1 connection to set a level of access. Collectively, they wouldn't disclose that,
2 either.

3 JUDGE COURTENAY: Generally, broadly, levels of access are set
4 by system administrators?

5 MR. SACHAR: Yes.

6 JUDGE COURTENAY: And your invention, your claim -- is this is
7 automatically done from detecting whether you have an encrypted or
8 unencrypted connection?

9 MR. SACHAR: That's correct.

10 JUDGE COURTENAY: Without a system administrator?

11 MR. SACHAR: That's correct.

12 JUDGE THOMAS: But method claim 1 only merely recites
13 determining.

14 MR. SACHAR: Well, method claim -- it's 41. It says determine a
15 level of security network connection based on determining whether the
16 computer network connection to connect -- device is encrypted. It goes on
17 to say that the different levels of access, what you -- what level of access
18 you have based on whether it's determined if the connection is encrypted.

19 JUDGE THOMAS: Once an administrator determines that, even
20 though it's done mechanically or manually, it's automatically set in place.

21 MR. SACHAR: In the art, the administrator doesn't make the
22 determination based on whether the connection is encrypted or non-
23 encrypted. It makes the determination based on the accessing device. In
24 Lewis, for example, the administrator could -- a device could connect in a
25 non-encrypted manner but it could have a very high level of access based on
26 what's set by the administrator. So the administrator is not making the

1 determination on the connection type, only on the -- what the actual device
2 is, who the user is, et cetera.

3 JUDGE THOMAS: Okay. Any other points to make?

4 MR. SACHAR: No, I think that summarizes our position.

5 JUDGE THOMAS: Very good. Thank you.

6 MR. SACHAR: Thank you very much for your time.

7 JUDGE COURTENAY: Thank you.

8 (Whereupon, the proceedings concluded on July 9, 2008, at
9 10:06 a.m.).